



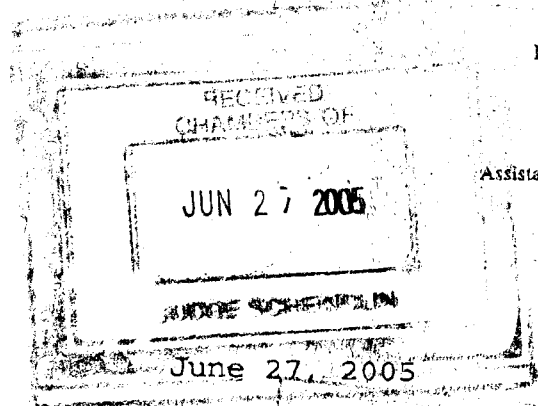
STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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Attorney General

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Deputy Attorney General  
State Counsel Division

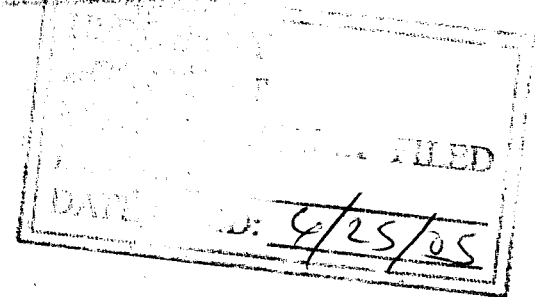
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Via Facsimile Transmission

Honorable Shira A. Scheindlin  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007



Re: Eddie Wise v. Raymond W. Kelly, et al.  
S.D.N.Y. Case No. 05 CV 5442 (SAS)

Dear Judge Scheindlin:

This Office, in conjunction with the Office of Court Administration in regard to the judicial defendants, represents Judge Judith Kaye, Chief Judge of the New York State Court of Appeals, Justice Jonathan Lippman, Chief Administrative Judge of the New York State Unified Court System, and Chauncey G. Parker, Commissioner of the New York State Division of Criminal Justice Services (the "State Defendants").

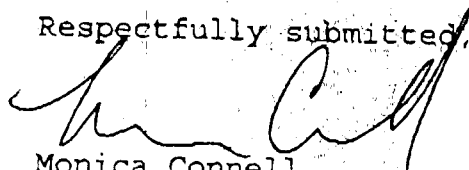
We write to request leave to submit a five page reply to plaintiff's June 24, 2005 letters, submitted pursuant to the Court's June 21, 2005 Order. We ask to have until Wednesday, June 29, 2005 for this submission. Plaintiff's counsel has no objection to this request so long as plaintiff is given the right to submit a response to any new issues raised in the reply.

In his June 24, 2005 letter regarding his entitlement to preliminary injunctive relief, plaintiff has changed his previous position regarding substantive points in his suit and State defendants would like a brief opportunity to respond.

First, plaintiff has conceded that Judges Kaye and Lippman, as administrative judges, may not direct other judges how to find in cases properly before them. Plaintiff has apparently abandoned his proposed order (previously submitted both by plaintiff and by State defendants) which required State defendants to order state court judges to refuse to hear cases alleging violations of Penal Law § 240.35(1) and has now provided what purports to be an "informational notice" to be issued by Judges Kaye and Lippman to judges and court personnel in the Criminal Courts of the City of New York. Second, plaintiff has also apparently conceded that the Loper decision, while persuasive, is not binding on the State courts.

State defendants ask for the opportunity to submit brief papers to the Court as to why, particularly in light of these major concessions and the fundamental federalism and comity issues present here, a grant of the injunctive relief now sought by the plaintiff is inappropriate in this case.

Respectfully submitted,



Monica Connell  
Assistant Attorney General

MC/

cc: Katherine Rosenfeld (Via Fax)  
Matthew D. Brinckerhoff  
J. McGregor Smyth, Jr.  
Attorneys for Plaintiff

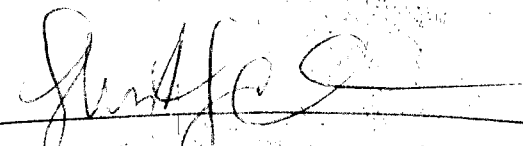
Rachel Seligman (Via Fax)  
Attorney for City Defendants

Defendant's request is granted. Defendant may submit a reply, not to exceed five pages, by June 29, 2005.

New York, New York

June 27, 2005.

SO ORDERED



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SHIRA A. SCHEINDLIN, USDT